REMARKS

Applicant proposes amending a paragraph of the specification to correct typographical errors and proposes amending claims 9, 17, 20, and 28. Claims 9, 17, 20, and 28 are pending in this application.

In the Final Office Action[1], the Examiner rejected claims 9, 17, 20, and 28 under 35 U.S.C. § 102(e) as being anticipated by Yasui et al. (U.S. Patent No. 6,320,580). Applicant respectfully traverses the rejection for at least the following reasons.

To properly anticipate Applicants' claimed invention, the Examiner must demonstrate the presence of each and every element of the claim in issue, either expressly described or under principles of inherency, in a single prior art reference. Furthermore, "[t]he identical invention must be shown in as complete detail as is contained in the . . . claim." *See* M.P.E.P. § 2131, quoting *Richardson v. Suzuki Motor Co.*, 868 F.2d 1126, 1236, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989). Finally, "[t]he elements must be arranged as required by the claim." M.P.E.P. § 2131.

Independent claim 9, as proposed to be amended, recites an image processing device comprising a processor for, among other things, "displaying a color for the shadow models based on a background color value behind the shadow models, a transparency value being set for the background color, and a corresponding transparency value being set for the corresponding gradation polygons, wherein **where two or more of the plurality of gradation polygons overlap**, the transparency value for the background color is set to the non-transparency value to make the background

[1] The Final Office Action contains a number of statements reflecting characterizations of the related art and the claims. Regardless of whether any such statement is identified herein, Applicant declines to automatically subscribe to any statement or characterization in the Final Office Action.

color non-transparent so that **the color of one of the shadow models closer to the viewpoint is calculated based on the background color value behind a closer one of the shadow models and the corresponding transparency value set for the corresponding gradation polygon for the closer one of the shadow models**" (emphases added).

The Final Office Action alleges that "it is inherent for the image processing to operate in the claimed manner because an opaque image is intended to not be seen through by a person viewing the screen." Final Office Action at page 2. To establish inherency, the Examiner must specifically identify extrinsic evidence that makes clear to one skilled in the art that the missing element "is necessarily present" in the Yasui disclosure. *See id.; see also* Continental Can Co. v. Monsanto. Co., 948 F.2d 1264, 1269 (Fed. Cir. 1991). The Final Office Action has not identified any such evidence and, accordingly, has not demonstrated inherency.

Rather, the Final Office Action contends "if a particular image is of a baseball bat making contact with a baseball, the viewer would see part of the bat, with the ball directly in front of it. The viewer would not see through the opaque baseball." Final Office Action at page 2. However, these contentions do not demonstrate that a teaching of "where two or more of the plurality of gradation polygons overlap, the transparency value set for the background color is set to the non-transparency value to make the background color non-transparent so that the color of one of the shadow models closer to the viewpoint is calculated based on the background color value behind a closer one of the shadow models and the corresponding transparency value

for the corresponding gradation polygon for the closer one of the shadow models," as recited in proposed amended independent claim 9 is necessarily present in Yasui.

In contrast, Yasui discloses:

> Another basic process in the rendering process is to determine which one of overlapping polygons should be displayed, pixel by pixel. For this purpose, an algorithm for comparing the Z values of the individual polygons with one another to select the polygon with the minimum Z value (the foreground polygon). Alternatively, at the time of rendering translucent polygons, color data of, for example, a background polygon is blended with color data of a foreground polygon, which overlaps the background polygon, in accordance with the transparency-degree indicating a value of the foreground polygon. In this case, the Z values are compared with each other too.
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> Col. 13, lines 5-17 (emphasis added).

As set forth above, Yasui determines whether or not an overlapping polygon should be displayed. However, Yasui does not teach that where two or more gradation polygons overlap, the color of one of the shadow models closer to the viewpoint is calculated based on (1) the background color value behind a closer one of the shadow models and (2) the corresponding transparency value set for the corresponding gradation polygon for the closer one of the shadow models. Therefore, Yasui does not teach "displaying a color for the shadow models based on a background color value behind the shadow models, the transparency value set for the background color, and the corresponding transparency value set for the corresponding gradation polygon, wherein **where two or more of the plurality of gradation polygons overlap**, the transparency value for the background color is set to the non-transparency value to make the background color non-transparent so that **the color of one of the shadow models closer to the viewpoint is calculated based on the background color value**

behind a closer one of the shadow models and the corresponding transparency value set for the corresponding gradation polygon for the closer one of the shadow models," as recited in proposed amendment independent claim 9 (emphases added).

For at least the above reasons, Yasui does not teach each and every element of independent claim 9. Accordingly, independent claim 9 is not anticipated by Yasui. Independent claim 20, although of a different scope, includes recitations similar to those of independent claim 9 and is not anticipated for at least similar reasons. Therefore, the Examiner should withdraw the rejection of claims 9 and 20 under 35 U.S.C. § 102(e).

Independent claim 17, as proposed to be amended, recites an image processing device including, among other things, "a pixel generation means that generates pixels to represent the shadow model based on the background color, the transparency set for the background color, and the transparency set for the corresponding gradation polygon, wherein **where two or more of the plurality of gradation polygons overlap**, the filter polygon is arranged between the overlapping gradation polygons so as to alter the transparency set for the background color so that **the color for a shadow model closer to the viewpoint is calculated based on the background color behind the closer shadow model and the corresponding transparency set for the corresponding gradation polygon for the closer shadow model**" (emphases added).

As discussed above, Yasui determines whether an overlapping polygon should be displayed. However, Yasui does not teach Applicant's claimed "filter polygon" where when two or more gradation polygons overlap, the color of one of the shadow models

closer to the viewpoint is calculated based on (1) the background color value behind a closer one of the shadow models and (2) the corresponding transparency value set for the corresponding gradation polygon for the closer one of the shadow models. Therefore, Yasui does not teach "a pixel generation means that generates pixels to represent the shadow model based on the background color, the transparency set for the background color, and the transparency set for the corresponding gradation polygon, wherein **where two or more of the plurality of gradation polygons overlap**, the filter polygon is arranged between the overlapping gradation polygons so as to alter the transparency set for the background color so that **the color for a shadow model closer to the viewpoint is calculated based on the background color behind the closer shadow model and the corresponding transparency set for the corresponding gradation polygon for the closer shadow model**," as recited in proposed amended independent claim 17 (emphases added).

For at least the above reasons, Yasui does not teach each and every element of independent claim 17. Accordingly, independent claim 17 is not anticipated by Yasui. Independent claim 28, although of a different scope, includes recitations similar to those of independent claim 17 and is not anticipated for at least similar reasons. Therefore, the Examiner should withdraw the rejection of claims 17 and 28 under 35 U.S.C. § 102(e).

CONCLUSION

Applicant respectfully requests that the Examiner enter this Amendment under 37 C.F.R. § 1.116, placing claims 9, 17, 20, and 28 in condition for allowance.

Applicant respectfully points out that the final action by the Examiner presented some new arguments as to the application of the art against Applicant's invention. It is respectfully submitted that the entering of the Amendment would allow the Applicant to reply to the final rejections and place the application in condition for allowance. Furthermore, Applicant submits that the entry of the amendment would place the application in better form for appeal, should the Examiner dispute the patentability of the pending claims.

In view of the foregoing remarks, Applicant requests the entry of this Amendment, the Examiner's reconsideration and reexamination of the application, and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

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By: _____
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